

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: **Lloyd Wolfinbarger, Jr., et al.**) Confirmation No. 5273
Serial No. **09/940,545**)) Group Art Unit.: 3733
Filed: **August 29, 2001**)) Examiner: **David C. Comstock**
For: **PLASTICIZED BONE AND SOFT**)) Date: **February 3, 2009**
TISSUE GRAFTS AND METHODS)
OF MAKING AND USING SAME)

PETITION UNDER 37 CFR 1.181(3)

This is a petition under 37 CFR 1.181(3) to invoke the supervisory authority of the Technology Center Director to review the Office Action, dated December 8, 2008, issued for the above-identified application. MPEP 1003 requires that Office Actions, which hold unpatentable claims copied from a patent for interference purposes where the grounds relied upon are equally applicable to the patentee, be submitted to the Technology Center Director for review (MPEP 1003, item #6).

As set forth in the response dated July 25, 2008, this application was filed on August 29, 2001, with claims copied from U.S. Patent 6,162,258, for the purpose of provoking an interference. Applicants respectfully point out that the references cited in the Office Action, dated December 8, 2008, are equally applicable to U.S. Patent 6,162,258 as prior art. In accordance with MPEP 1003, item #6, the Office Action dated December 8, 2008, should have been submitted to the Technology Center Director for consideration and signature before mailing to Applicants.

Moreover, Applicants respectfully point out that in the response dated July 25, 2008, Applicants requested that the next Office Action citing references that are applicable to U.S. Patent 6,162,258 be submitted to the Technology Center Director for consideration and signature prior to mailing to Applicants. However, the Office Action, dated December 8, 2008, was mailed to Applicants without the Technology Center Director's signature.

Accordingly, Applicants petitions under 37 CFR 1.181(3) to invoke the supervisory authority of the Technology Center Director to review the Office Action, dated December 8, 2008.

Applicants do not believe that a fee is required for filing this petition. However, if a fee is required for the filing of this petition, please charge the fee to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. §1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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